



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 08 2017

Mr. S. Jay Zimmerman
Director
Division of Water Resources
North Carolina Department of Environment
and Natural Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Dear Mr. Zimmerman:

The purpose of this letter is to approve North Carolina's designated use revisions, submitted to the Environmental Protection Agency for review by letter, dated August 25, 2017 and received on September 18, 2017. The revisions include modifications of the use designations for the Catawba River (Lake James) and a number of its tributaries to protect water supplies.

A certification letter from the Chief Deputy Attorney General dated July 23, 2017 was included in the submission from North Carolina and concludes that the revisions were duly adopted pursuant to state law and are valid and enforceable in the state of North Carolina. In accordance with 40 CFR section 131.21(c), new and revised state and tribal water quality standards are not effective for Clean Water Act (CWA) purposes until approved by the EPA. Since the revisions modifying the designated uses for these waterbodies retain all aquatic life uses and supporting water quality criteria of North Carolina's Class C (fishable/swimmable) designation which also apply to Water Supply-IV and related critical area classifications, the revisions are consistent with the goals of section 101(a) of the CWA and the implementing regulations at 40 CFR part 131. In accordance with section 303(c) of the CWA and 40 CFR part 131, the EPA is approving these revisions.

If you have any questions, please feel free to contact me at (404) 562-9345 or have your staff contact Ms. Lauren Petter at (404) 562-9272.

Sincerely,

A handwritten signature in blue ink, appearing to read "MSW", is positioned above the printed name of the signatory.

Mary S. Walker
Director
Water Protection Division

cc: Tom Belnick, NC DWQ NPDES
Molly Davis, US EPA NPDES Permitting Section
Shawneille Campbell-Dunbar, US EPA Drinking Water Section

**Decision Document of the United States Environmental Protection Agency Determination
Under Section 303(c) of the Clean Water Act Review of North Carolina's
2017 Reclassification for Catawba River (Lake James)**

Section 303 of the Clean Water Act (CWA) requires states to establish water quality standards (WQS) and to submit any new or revised WQS to the EPA for approval or disapproval. In a letter dated August 25, 2017 from S. Jay Zimmerman, Director for the Division of Water Resources for the North Carolina Department of Environmental Quality (NCDEQ), to Mr. Trey Glenn, Regional Administrator of the EPA's Region 4 Office, NCDEQ submitted new and revised WQS for review by the EPA pursuant to section 303(c) of the CWA. In a July 23, 2017 letter, North Carolina's Chief Deputy Attorney General certified that the WQS revisions were duly adopted pursuant to North Carolina law.

The revisions addressed in this document were discussed in a public hearing on January 5, 2017 and approved for adoption by the North Carolina Environmental Management Commission on May 11, 2017. In general, the revisions incorporate the water supply (WS) classification WS-IV for waters previously classified as Class C, Class C Trout (Tr), Class B, Class WS-V, and/or High Quality Waters (HQW). Those waters located in the half mile critical area (CA) are also noted with a CA. All other waters without CA are within the five mile protected area (PA). The language specifically adopted into 15A NCAC 02B .0308(y) states:

(y) The Schedule of Classifications and Water Quality Standards for the Catawba River was amended July 1, 2017 as follows:

- (1) a portion of the Catawba River [Index No. 11-(23)], including tributaries, from Bridgewater Dam to North Fork Catawba River from Class WS-V & B to Class WS-IV CA & B, and a portion of the Catawba River [part of Index No. 11-(8)], including tributaries, from North Fork Catawba River to a point 0.75 mile downstream of SR 1501 from Class C to Class WS-IV CA. The CA extends 0.5 mile from and draining to the normal pool elevation of Lake James.
- (2) a portion of the Catawba River [part of Index No. 11-(8)], including tributaries, from a point 0.75 mile downstream of SR 1501 to a point 0.21 mile upstream of I-221 from Class C to Class WS-IV. The PA extends 5.0 miles from and draining to the normal pool elevation of Lake James.

The above revisions became effective on July 1, 2017 for state purposes and the specific changes for each segment are further described below.

Name of Stream	Previous Description	Revised Description	Previous Class	Revised Class	Stream Index #
Catawba River (including backwaters of Lake James below elevation 1200)	From Dam at Old Fort Finishing Plant Water Supply Intake to North Fork	From Dam at Old Fort Finishing Plant Water Supply Intake to a point 0.21 mile upstream of I-221	C	No change in class	

Catawba River (including backwaters of Lake James below elevation 1200)	Catawba River	From a point 0.21 mile upstream of I-221 to a point 0.75 mile downstream of SR 1501	C	WS-IV	11-(18.5)
Catawba River (including backwaters of Lake James below elevation 1200)		From a point 0.75 mile downstream of SR 1501 to North Fork Catawba River	C	WS-IV; CA	11-(22.5)
Buck Creek	From Marion Water Supply Intake to Catawba River	No change in segment description	C; Tr	WS-IV; Tr	11-19-(14)
Nix Creek (Nicks Creek)	From source to Catawba River	From source to a point 0.30 mile upstream of SR 1191	C	No change in class	
Nix Creek (Nicks Creek)		From a point 0.30 mile upstream of SR 1191 to Catawba River	C	WS-IV	11-20-2
Toms Creek	From source to Harris Creek	From source to a point 0.05 mile upstream of Harris Creek	C; Tr; HQW	No change in class	
Toms Creek		From a point 0.05 mile upstream of Harris Creek to Harris Creek	C; Tr; HQW	WS-IV; Tr; HQW	11-21-(1)-2
Toms Creek	From Harris Creek to McDowell County SR 1434	No change in segment description	C; HQW	WS-IV; HQW	11-21-(2)
Harris Creek		From source to a point 0.04 mile	C; Tr; HQW	No change in class	

		upstream of Toms Creek			
Harris Creek	From source to Toms Creek	From a point 0.04 mile upstream of Toms Creek to Toms Creek	C; Tr; HQW	WS-IV; Tr; HQW	11-21-3-2
South Fork Toms Creek	From source to Toms Creek	From source to a point 0.60 mile upstream of Toms Creek	C; Tr; HQW	No change in class	
South Fork Toms Creek		From a point 0.60 mile upstream of Toms Creek to Toms Creek	C; Tr; HQW	WS-IV; Tr; HQW	11-21-4-2
Betsy Creek	From source to Toms Creek	From source to a point 0.09 mile downstream of source	C; Tr; HQW	No change in class	
Betsy Creek		From a point 0.09 mile downstream of source to Toms Creek	C; Tr; HQW	WS-IV; Tr; HQW	11-21-5-2
Toms Creek (Morgan Lake)	From McDowell County SR 1434 to Catawba River	No change in segment description	C	WS-IV	11-21-(6)
Johns Creek	From source to Catawba River	No change in segment description	C; Tr	WS-IV; Tr	11-22
Catawba River (Lakes James below elevation 1200)	From North Fork Catawba River to Bridgewater Dam	No change in segment description	WS-V; B	WS-IV; CA; B	11-(23)
North Fork Catawba River	From mouth of Laurel Branch to Armstrong Creek	From source to a point 0.74 upstream of Conley Branch	B; Tr	No change in class	
North Fork Catawba River		From a point 0.74 upstream of Conley Branch to Armstrong Creek	B; Tr	WS-IV; B; Tr	11-24-(11.5)

Conley Branch		From source to a point 0.13 mile downstream of US-221	C; Tr	No change in class	
Conley Branch	From source to North Fork Catawba River	From a point 0.13 mile downstream of US-221 to North Fork Catawba River	C; Tr	WS-IV; Tr	11-24-12-2
North Fork Catawba River	From Armstrong Creek to a point 0.17 mile downstream of SR-1552		C	WS-IV	11-24-(13)
North Fork Catawba River	From a point 0.17 mile downstream of SR-1552 to Lake James, Catawba River			WS-IV; CA	11-24-(17)
Armstrong Creek		From source to a point 0.27 mile upstream of US-221	C; Tr; HQW	No change in class	
Armstrong Creek	From source to Hickory Bottom Creek	From a point 0.27 mile upstream of US-221 to Hickory Bottom Creek	C; Tr; HQW	WS-IV; Tr; HQW	11-24-14-(12.5)
Hickory Bottom Branch		From a point 0.02 mile downstream of US-221	C; HQW	No change in class	
Hickory Bottom Branch	From source to Armstrong Creek	From a point 0.02 mile downstream of US-221 to Armstrong Creek	C; HQW	WS-IV; HQW	11-24-14-13-2
Armstrong Creek	From Hickory Bottom Creek to American Thread Company Water Supply Dam	No change in segment description	C; HQW	WS-IV; HQW	11-24-14-(13.5)

Armstrong Creek	From American Thread Company Water Supply Dam to North Fork Catawba River	No change in segment description	C; Tr; HW	WS-IV; Tr: HW	11-24-14-(14)
Limekiln Creek	From source to North Fork Catawba River	From a point 0.31 mile upstream of US-221	C	No change in class	
Limekiln Creek		From a point 0.31 mile upstream of US-221 to North Fork Catawba River	C	WS-IV	11-24-15-2
McGegers Branch	From source to North Fork Catawba River	No change in segment description	C	WS-IV	11-24-16
Forsyth Creek	From source to Lake James, Catawba River	From source to a point 0.43 mile downstream of SR-1536	C	WS-IV	11-25-1
Forsyth Creek		From a point 0.43 mile downstream of SR-1536 to Lake James, Catawba River		WS-IV; CA	11-25-2
Bailey Creek	From source to Lake James, Catawba River	From source to a point 0.39 mile upstream of SR-1552	C	WS-IV	11-26-1
Bailey Creek		From a point 0.39 mile upstream of SR-1552 to Lakes James, Catawba River		WS-IV; CA	11-26-2
Bear Creek		From source to a point 0.46 mile	C	WS-IV	11-26-1-1

		upstream of SR-1552			
Bear Creek	From source to Bailey Creek	From a point 0.46 mile upstream of SR-1552 to Bailey Creek		WS-IV; CA	11-26-1-2
Dales Creek	From source to Lake James, Catawba River	From source to a point 0.22 upstream of NC-1552	C	WS-IV	11-27-1
Dales Creek		From a point 0.22 upstream of NC-1552 to Lakes James, Catawba River		WS-IV; CA	11-27-2
Paddy Creek	From source to Lake James, Catawba River	From source to a point 0.28 mile downstream of NC-126	C; Tr	WS-IV; Tr	11-28-(1)
Paddy Creek		From a point 0.28 mile downstream of NC-126 to Lake James, Catawba River	C; Tr	WS-IV; CA; Tr	11-28-(2)
Black Fork	From source to Paddy Creek	No change in segment description	C; Tr	WS-IV; Tr	11-28-1
Yellow Fork	From source to Paddy Creek	No change in segment description	C; Tr	WS-IV; Tr	11-28-2
Linville River	From southern Boundary of Daniel Boone Wildlife Management Area to Lake James, Catawba River	From source to a point 0.37 mile upstream of Chimney Branch	B; HQW	No change in class	
Linville River		From a point 0.37 mile upstream of Chimney Branch to a point 0.06 mile upstream of NC-126		WS-IV; B; HQW	11-29-(19.5)
Linville River		From a point 0.06 mile upstream of NC-126 to Lake		WS-IV; CA; B; HQW	11-29-(23)

		James, Catawba River			
Chimney Branch	From source to Linville River	No change in segment description	C	WS-IV	11-29-20
Cambric Branch	From source to Linville River	No change in segment description	C	WS-IV	11-29-21
Shooks Branch	From source to Linville River	No change in segment description	C; Tr	WS-IV; Tr	11-29-22
Sandy Branch	From source to Shooks Creek	No change in segment description	C; Tr	WS-IV; Tr	11-29-22-1
White Creek	From source to Lake James, Catawba River	From source to a point 0.36 mile upstream of NC-126	C	WS-IV	11-30-1
White Creek		From a point 0.36 mile upstream of NC-126 to Lake James, Catawba River		WS-IV; CA	11-30-2

Based on a request from McDowell County, the above revisions were made to ensure specific future water quality protections for the waterbodies in anticipation of the construction of a new water supply intake in Lake James. In making these revisions, North Carolina has provided additional protection to the subject waters for use as a potable water supply source. Water supply classifications protect “sources of water supply for drinking, culinary or food processing purposes” as well as for all Class C purposes and the instream numerical standards are identical for each of the water supply classifications. As indicated in the table above, modifications of classifications of waters from Class C to Class WS-IV were the substance of this action. One segment, closest to the dam, was upgraded from WS-V to WS-IV, to be consistent with the overall set of revisions.

With regard to the water quality criteria and designated use expectations, Class C applies to all fresh waters of the State and includes protection for aquatic life propagation, maintenance of biological integrity, fishing, wildlife, secondary recreation, agriculture and any other usages except primary recreation or as a water supply. As indicated by 15A NCAC 02B.0216, the WS-IV category is for those waters that are a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I, WS-II, or WS-III classification is not feasible. WS-IV waters must also meet all of the requirements for best usage specified for Class C waters under 15A NCAC 02B .0211. The CA designation is for the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than in the remaining portions of the watershed, typically the land and waters within 0.5 miles above the intake, as is the case for this revision. The PA designation is for the area adjoining and upstream of the CA designated area in a WS-IV watershed, as further described in the adopted language above.

In a February 18, 2016 memorandum, the Water Sciences Section at NCDEQ evaluated the Lake James 2015 Reclassification Study to determine whether the water supply standards were met. North Carolina conducted sampling of chemical and physical parameters three times from September to November 2015 at four sites. Historic sampling results were also evaluated as part of the study.

A public hearing was held in Marion, North Carolina, on January 5, 2017. Twenty-three people registered at the hearing with five providing oral comments. In addition to oral comments, written comments were provided to the Department of Water Resources (DWR), and in the State's Report of Proceedings document they have summarized the concerns contained in those comment letters along with a response from DWR.

Endangered Species Act


Section 7(a)(2) of the Endangered Species Act (ESA) requires federal agencies, in consultation with the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service, to ensure that their actions are not likely to jeopardize the continued existence of federally listed species or result in the destruction or adverse modification of designated critical habitat of such species.

With regard to consultation activities for section 7 of the ESA, only the FWS would be involved with this fresh water action; however, the EPA Region 4 office concluded that there would be no effect on threatened or endangered species because all the newly applicable criteria associated with the WS-IV are related to human health protection. Therefore, no consultation with the FWS is required.

Conclusions

Based on the reasons outlined above, it is our conclusion that the requirements of the CWA and 40 CFR part 131 have been met for the revised use classifications and the revisions are therefore approved.

10/31/2017
Date


Mary S. Walker
Director, Water Protection Division